

251/252 AGREEMENT

FOR Collocation and ISP Interconnection

BETWEEN

GALLATIN RIVER COMMUNICATIONS, L.L.C

AND

NTS Services Corp.

FOR THE STATE OF ILLINOIS

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251/252 AGREEMENT

This 251/252 Agreement (the "Agreement") is effective upon the next business day following the date the Illinois Commerce Commission approves the executed Agreement ("Effective Date"). The Agreement is by and between Gallatin River Communications, L.L.C ("GALLATIN"), with its address for purposes of this Agreement at 100 N. Cherry Street, Galesburg, Illinois 61401 and NTS (NTS Services Corp.), in its capacity as a certified provider for Collocation and ISP Interconnection services ("NTS"), with its address for this Agreement at 2209 Broadway Street, Pekin, Illinois. 61554 (GALLATIN and NTS being referred to collectively as the "Parties" and individually as a "Party"). This Agreement covers services in the State of Illinois only (the "State").

RECITALS

WHEREAS, Section 251 of the Telecommunications Act of 1996 (the "Act") imposes specific obligations upon GALLATIN to negotiate in good faith in accordance with Section 252 of the Act, an agreement embodying the terms and conditions of the provision of certain telecommunications services and facilities to NTS and other terms and conditions that are legitimately related to, and constituting a part of, said arrangements; and

WHEREAS, pursuant to Section 252(a) of the Act, NTS issued a written request to GALLATIN to enter into said negotiations; and

WHEREAS, the Parties completed good faith negotiations that led to the services and facilities arrangements, including all legitimately related terms and conditions, described herein.

NOW, THEREFORE, in consideration of the mutual provisions contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and without waiving any reservation of rights set forth herein, GALLATIN and NTS hereby covenant and agree as follows.

ARTICLE I

SCOPE AND INTENT OF AGREEMENT

Pursuant to this Agreement, the Parties will extend certain arrangements to one another within each area in which they both operate within the State as needed to meet the requirements of this Agreement. This Agreement also governs the purchase by NTS of certain services and/or facilities from GALLATIN in its franchise areas used by NTS, provided, however, Interconnection may not be used solely for the purpose of originating a Party's own interexchange traffic. This Agreement reflects a balancing of interests critical to the Parties. This Agreement will be submitted to the Illinois Commerce Commission (the "Commission") for approval. The Parties agree that their entrance into this Agreement is without prejudice to and does not waive any positions they may have taken previously, or may take in the future, in any legislative, regulatory, judicial or other public forum addressing any matters, including matters related to the same types of arrangements covered in this Agreement. NTS agrees to negotiate reciprocal terms and conditions with GALLATIN based on this Agreement.

Should any services and facilities to be provided to NTS by GALLATIN in satisfaction of this Agreement be modified by an immediately effective order, including any modifications resulting from Commission proceedings, FCC, federal court review or other judicial action, and, unless otherwise specified herein, such modifications will be deemed to automatically supersede any rates and terms and conditions of this Agreement. The Parties shall cooperate with one another for the purpose of incorporating required modifications into this Agreement.

Notwithstanding anything to the contrary contained herein, Gallatin's obligations under this Agreement shall apply only to the (i) specific operating area(s) or portion thereof in which Gallatin is then deemed to be the "ILEC" under the Act (the "ILEC Territory") and (ii) assets that Gallatin owns or leases and which are used in connection with Gallatin's provision to NTS of any products or services provided or contemplated under this Agreement, the Act or any tariff or ancillary agreement referenced herein (individually and collectively, the "ILEC Assets"). If during the Term Gallatin sells, assigns or otherwise transfers any ILEC Territory or ILEC Assets to a person other than an Affiliate or subsidiary, Gallatin shall provide NTS not more than seven (7) days after filing a petition for approval, of such proposed transfer or sale, with State and/or Federal regulatory authorities written notice of such sale, assignment or transfer. Upon the consummation of such sale, assignment or transfer, NTS acknowledges that Gallatin shall have no further obligations under this Agreement with respect to the ILEC Territories and/or ILEC Assets subject to such sale, assignment or transfer and that NTS must establish its own Section 251/252 arrangement with the successor to such ILEC Territory and/or ILEC Assets.

The terms and conditions set forth in this Agreement are conditioned upon the approval by the Commission and/or related governmental authorities. Any action taken by the Illinois Commerce Commission, the FCC or court of competent jurisdiction shall be applied to this Agreement as set forth herein.

ARTICLE II SERVICES AND FACILITIES

1. Definitions.

Except as otherwise specified herein, the definitions set forth in the Glossary that is attached hereto as Appendix A to Articles I, II and III shall apply to this Agreement. Additional definitions that are specific to the matters covered in a particular provision may appear in that provision. To the extent that there may be any conflict between a definition set forth in Appendix A and any definition in a specific provision, the definition set forth in the specific provision shall control with respect to that provision and the Article or Attachment in which such provision shall be included.

2. Service and Facility Arrangements.

2.1 Standard Alternatives.

GALLATIN shall provide to NTS the services and/or facilities below pursuant to the designated service attachment (check all that apply):

☒ Interconnection Attachment
☐ Resale Attachment
☒ UNE Attachment
☒ Collocation Attachment

This Agreement consists of the designated services and/or facilities Attachment(s), and with respect to each such Attachment, all terms and conditions set forth in Articles I, II and III. The terms and conditions in a given Attachment together with all such Article I, II and III terms and conditions are integrally and legitimately related, and shall govern the provision of the designated services and/or facilities by GALLATIN to NTS.

3. Operations and Administrative Matters.

3.1 CLEC Profile.

At the time of a request for an Agreement, but no later than the Effective Date of this Agreement, NTS must complete and return the CLEC Profile, and if required, pay an advance deposit (See Appendix B – Deposit Requirements.). The deposit shall be secured by a certified check, irrevocable letter of credit or surety bond in a form and from an institution reasonably satisfactory to GALLATIN. No orders can be taken without providing the CLEC Profile. NTS will provide GALLATIN with its Operating Company Number ("OCN") and, if applicable, its Carrier Identification Code ("CIC"). NTS hereby represents and warrants to GALLATIN that it is a certified provider of telecommunications service in Illinois or shall obtain that certification prior to offering service under this Agreement and it shall operate in conformance with its certificate. NTS will document its Certificate of Operating Authority on the CLEC Profile and will provide proof of this at the time of submitting the CLEC profile. NTS agrees to update this CLEC Profile as required to reflect its current certification. CLEC Profile sent on 10/09/01 under separate cover.

3.2 GALLATIN Operating Practices and Procedures.

GALLATIN's operating practices and procedures, general information for pre-ordering, ordering, provisioning, repair and billing for resold services and unbundled network

elements, and guidelines for obtaining interconnection with GALLATIN's switched network will be provided subject to the processes reasonably prescribed in the GALLATIN CLEC Support Services Guide, when available. GALLATIN will notify NTS when its CLEC Support Services Guide is available. The GALLATIN CLEC Support Services Guide is intended to provide general guidelines and operational and administrative assistance to CLECs seeking to order services and facilities pursuant to this Agreement. Such guidelines and operating practices and procedures through a GALLATIN CLEC Support Services Guide must be flexible to accommodate changes in the dynamic telecommunications industry, which are necessary to promote increased effectiveness and efficiency, etc. Therefore, GALLATIN reserves the right to make changes to these processes. In reserving its right to make changes to the processes, it is not GALLATIN's intention to discriminate against NTS. GALLATIN, to the extent practicable, uses standard OBF Ordering Forms and procedures and, therefore, is not responsible for providing training or documentation on such forms. If, in NTS's opinion, a particular change to the processes violates GALLATIN's non-discrimination obligations pursuant to the Act, NTS may so notify GALLATIN. If the Parties cannot resolve NTS's concerns within thirty (30) days, NTS may invoke the Dispute Resolution provisions in Article III, Section 3 to resolve the matter.

3.3 Contact Exchange.

The Parties agree to exchange and to update contact and referral numbers for order inquiry, trouble reporting, billing inquiries, and general information as required in the CLEC profile to comply with this Agreement and/or law enforcement and other security agencies of the government.

3.4 Capacity Planning and Forecasting.

GALLATIN agrees to work with NTS to ensure that any network facilities are available for the customers needs. Within ninety (90) calendar days from the Effective Date, the Parties agree to develop joint planning and forecasting responsibilities which are applicable to the service and facilities Attachments described above in Section 2. GALLATIN may delay processing NTS service orders should NTS not perform its obligations as specified in this Section 3.4. Such responsibilities shall include, but are not limited to, the following:

- 3.4.1 NTS will periodically review network and technology plans and will notify GALLATIN no later than six (6) months in advance of changes that would impact GALLATIN's provision of services.
- 3.4.2 NTS will furnish to GALLATIN information that provides for state-wide annual forecasts listed by wire center of order activity, in-service quantity forecasts, and facility/demand forecasts. Gallatin cannot be held accountable for intervals and blocking if it does not receive accurate forecasts.
- 3.4.3 If this Agreement includes an Interconnection Attachment, NTS will develop forecasting for traffic utilization over trunk groups. These forecasts will be provided semi-annually and will include quarterly forecasts of trunks/facilities for a five (5) year period.
- 3.4.4 NTS shall notify GALLATIN promptly of changes greater than five percent (5%) to current forecasts (increase or decrease) that generate a shift in the demand curve for the following forecasting period.

The Parties' compliance with the requirements of this provision shall not constitute a

waiver of any rights or obligations either Party may have under Applicable Law relative to the offering and provisioning of services and facilities.

3.5 Electronic Interfaces.

When GALLATIN notifies NTS that GALLATIN has established electronic interfaces, NTS shall be responsible for modifying and connecting any of its pre-ordering and ordering systems with GALLATIN-provided interfaces and as described in the GALLATIN CLEC Support Services Guide. All costs and expenses associated with connection to GALLATIN electronic interfaces shall be paid by NTS. In addition, GALLATIN will provide electronic interface training; however, NTS will be responsible for the costs of said training (i.e., travel, hotel, per diem).

Both Parties agree that due to GALLATIN's size and the complexity of electronic interfaces, no plans have been made to add this capability.

3.6 OSS Performance Measures.

3.6.1 General. The Parties will provide a level of service to each other with respect to services and facilities under this Agreement in compliance with the non-discrimination requirements of the Act. Performance measures detail the areas of performance to be tracked, reported and audited to evaluate quality of service. Until such time that the OSS performance standards become available, GALLATIN will abide by industry guidelines on performance standards. Both parties agree that due to Gallatin's size and the complexity of electronic interfaces, no current plans have been established to add this capability.

3.6.2 Changes. Performance measures to measure quality of service are provisional and subject to continued evolution as driven by the industry and state and federal regulation. Once the new OSS performance measures standards are developed and implemented, new or modified performance measures shall be made available to NTS and shall automatically modify and/or replace the existing performance measures GALLATIN currently makes available to all CLECs.

3.6.3 Description. Upon OSS implementation, GALLATIN's performance measures will be made available to all qualifying CLECs. Such performance measures will provide for standards to measure the quality of services and facilities offered by GALLATIN. Both parties agree that no OSS is currently planned by GALLATIN or expected in the near future.

3.7 Law Enforcement Interface.

Except to the extent not available in connection with GALLATIN's operation of its own business, for GALLATIN equipment and/or NTS equipment maintained by GALLATIN, GALLATIN shall provide seven day a week/twenty-four hour a day assistance to law enforcement agencies for installation and information retrieval pertaining to traps, traces, court orders and subpoenas. For NTS equipment not maintained by GALLATIN, NTS shall be responsible for such assistance with law enforcement. GALLATIN reserves the right to charge for its service.

3.8 Customer Contacts.

Except as otherwise provided in this Agreement or as agreed to in a separate notification signed by NTS, NTS shall provide the exclusive interface with NTS's customers in connection with the marketing or offering of NTS services.

Nothing in this Section 3.8 shall preclude GALLATIN from contacting NTS's current or pending customers in the normal course of GALLATIN's marketing and sales activities; provided, however, that those GALLATIN market personnel responsible for processing requests for customer service records, change in service orders, or other requests by NTS shall not use or make available any Customer Proprietary Network Information ("CPNI") for GALLATIN's retail sales and marketing operations in violation of the law or, to the extent required under applicable law, without NTS's or the customer's consent.

3.9 Standard Practices.

The Parties acknowledge that GALLATIN has already implemented, and shall be establishing or adopting, industry standard practices and/or its own standard practices, that are not otherwise specified in this Agreement, to implement the various requirements of its obligations hereunder. Such standard practices are defined as practices that are generally applicable to the CLEC industry as a whole and are not specific to NTS. Such practices will be administered on a nondiscriminatory basis. NTS agrees that GALLATIN may, but is not required to, implement such industry standard practices to satisfy any GALLATIN obligations under this Agreement.

4 Financial Matters.

4.1 Rates.

4.1.1 Lists. Except as otherwise provided herein, the rate and charge list for a given facility or service ordered hereunder shall be set forth as an appendix to the applicable facility or service Attachment.

4.1.2 Rate Changes. The rates and charges set forth in the applicable Appendices to this Agreement are permanent, except as otherwise expressly provided in this Agreement or to the extent that an Appellate court or any other court or regulatory body of competent jurisdiction overturns, invalidates, stays, vacates or otherwise modifies the methodology from which such rates and charges were derived. In the event the Appellate court or any other court or regulatory body of competent jurisdiction overturns, invalidates, stays, vacates or otherwise modifies such methodology, such decision, order or ruling shall apply prospectively unless otherwise ordered. The Parties further agree that they, in good faith, shall negotiate replacement rates and charges ("new rates") within ninety (90) calendar days of the date upon which such decision, order or ruling is issued. If the negotiations do not result in a timely agreement by both parties relating to the replacement rates and charges, either party has the right to invoke the Dispute Resolution procedures to resolve the matter.

4.1.3 TBD Prices. Numerous provisions in this Agreement refer to pricing principles. If a provision references prices and there are no corresponding prices, such prices shall be considered "To Be Determined" ("TBD"). With respect to all TBD prices, prior to NTS ordering any such TBD item, the Parties shall confer to establish a price. If the Parties are unable to reach agreement on a price for such item within thirty (30) days, a request for Arbitration may be made according to procedures identified in the Dispute Resolutions process.

4.2 Cost Recovery.

In performing under this Agreement, GALLATIN may be required to make expenditures or otherwise incur costs, at the request of NTS or to meet NTS service requirements, that are not otherwise identified for reimbursement under this Agreement. In such event, GALLATIN is entitled to reimbursement from NTS for all such costs reasonably incurred, provided, however, NTS shall only be responsible for those costs directly attributable to NTS. For all such costs and expenses, GALLATIN shall receive through non-recurring charges the actual costs and expenses incurred, including labor costs and expenses, overhead and fixed charges, and may include a reasonable contribution to GALLATIN's common costs.

4.3 Billing and Payment.

4.3.1 General. Payment for all facilities and services provided hereunder is due thirty (30) calendar days from the bill date. Neither Party will bill the other Party for previously unbilled charges incurred more than two (2) years prior to the current billing date; but in no event may either Party bill the other Party for charges incurred prior to the Effective Date unless both parties mutually agree to such charges in writing. If any undisputed amount due on the billing statement is not received by the billing Party on the payment due date, the billing Party shall calculate and assess, and the billed Party agrees to pay, at the billing Party's option, a charge on the past due balance at an interest rate equal to one and one-half percent (1 ½%) per month, compounded daily or the maximum nonusurious rate of interest under applicable law. Late payment charges shall be included on the next statement. It is agreed that when NTS orders service from Gallatin, those services will be billed by Gallatin to the NTS address specified at the time of the service ordering, regardless of the service address or location of that service.

4.3.2 Security. Upon request by GALLATIN, NTS shall, at any time and from time to time, provide GALLATIN adequate assurance of payment of amounts due (or to become due) to GALLATIN hereunder. Assurance of payment of charges may be requested by GALLATIN if NTS: (a) in GALLATIN's reasonable judgement, at the Effective Date or at any time thereafter, is unable to demonstrate that it is creditworthy; (b) fails to timely pay a bill rendered to NTS by GALLATIN; (c) in GALLATIN's reasonable judgement, at the Effective Date or at any time thereafter, does not have established credit with GALLATIN; or (d) admits its inability to pay its debts as such debts become due, has commenced a voluntary case (or has had a case commenced against it) under the U.S. Bankruptcy Code or any other law relating to bankruptcy, insolvency, reorganization, winding-up, composition or adjustment of debts or the like, has made an assignment for the benefit of creditors or is subject to a receivership or similar proceeding. Unless otherwise agreed by the Parties, the assurance of payment shall, at GALLATIN's request, consist of: (i) a cash security deposit in U.S. dollars held in an account by GALLATIN; or (ii) an unconditional, irrevocable standby letter of credit naming GALLATIN as the beneficiary thereof and that is otherwise in form and substance satisfactory to GALLATIN from a financial institution acceptable to GALLATIN, in either case in an amount equal to two (2) months anticipated charges (including, without limitation, both recurring and non-recurring charges), as reasonably determined by GALLATIN, for the services, facilities or arrangements to be provided by GALLATIN to NTS in connection with this Agreement. If required by an applicable GALLATIN Tariff or by Applicable Law, interest will be paid on any such deposit held by GALLATIN at the higher of the stated interest rate in such Tariff or in the provisions of the Applicable Law. GALLATIN may (but is not obligated to) draw on the letter of credit or funds on deposit in the account, as

applicable, upon notice to NTS in respect of any amounts billed hereunder that are not paid within thirty (30) calendar days of the date of the applicable statement of charges prepared by GALLATIN. The fact that a security deposit or a letter of credit is requested by GALLATIN hereunder shall in no way relieve NTS from compliance with GALLATIN's regulations as to advance payments and payment for service, nor constitute a waiver or modification of the terms herein pertaining to the discontinuance of service for nonpayment of any sums due to GALLATIN for the services, facilities or arrangements rendered.

- 4.3.3 Billing Disputes. If NTS disputes a billing statement issued by GALLATIN, unless NTS shall notify GALLATIN in writing regarding the specific nature and basis of the dispute before payment is due, the dispute shall be waived. NTS shall inform GALLATIN in writing of which portion of the unpaid charges it disputes, including the specific details and reasons for the dispute, unless such reasons have been previously provided, and shall immediately pay to GALLATIN all undisputed charges. The Parties shall diligently work toward resolution of all billing issues. If a dispute arises from this process and is not resolved in thirty (30) days, either Party may invoke the Dispute Resolution provision described in Article III, Section 3 of this Agreement to resolve the dispute.
- 4.3.4 Information Requirements/Audits. Except as provided elsewhere in this Agreement and where applicable, in conformance with Multiple Exchange Carrier Access Billing ("MECAB") guidelines and Multiple Exchange Carriers Ordering and Design Guidelines for Access Services-Industry Support Interface ("MECOD"), NTS and GALLATIN agree to exchange all information to accurately, reliably, and properly order and bill for features, functions and services rendered under this Agreement. Either Party may conduct an audit of the other Party's books and records pertaining to the services provided under this Agreement, no more frequently than once per twelve (12) month period, to evaluate the other Party's accuracy of billing, data and invoicing in accordance with this Agreement. Any audit shall be performed as follows: (i) following at least thirty (30) business days' prior written notice to the audited Party; (ii) subject to the reasonable scheduling requirements and limitations of the audited Party; (iii) at the auditing Party's sole cost and expense; (iv) of a reasonable scope and duration; (v) in a manner so as not to interfere with the audited Party's business operations; and (vi) in compliance with the audited Party's security rules.
- 4.3.5 Impact of Payment of Charges on Service. NTS is solely responsible for the payment of all charges for all services and facilities furnished under this Agreement, including, but not limited to, calls originated or accepted at its or its Customers' service locations. If NTS fails to pay when due any and all charges billed to NTS under this Agreement, including any late payment charges (collectively, "unpaid charges"), and any or all such charges remain unpaid when due according to the invoice. GALLATIN shall notify NTS in writing that it must pay all unpaid charges to GALLATIN. If NTS and GALLATIN are unable, within thirty (30) business days thereafter, to resolve issues related to the disputed charges, then either NTS or GALLATIN may file a request for Dispute Resolution under the provisions of this Agreement to resolve those issues. Upon resolution of any dispute hereunder, if NTS owes payment it shall make such payment to GALLATIN with any late payment charge from the original payment due date. If NTS owes no payment, but has previously paid GALLATIN such disputed payment, then GALLATIN shall credit such payment including any late payment charges. GALLATIN may discontinue service to NTS upon failure to pay undisputed charges as provided in this Section and shall have no liability to NTS or NTS's Customers in the event of such disconnection. If NTS fails to provide such notification or any of NTS's Customers fail to select a new provider of

services within the applicable time period, GALLATIN may provide local exchange services to NTS's Customers under GALLATIN's applicable General Customer Services tariff at the then current charges for the services being provided. In this circumstance, otherwise applicable service establishment charges will not apply to NTS's Customer, but will be assessed to NTS.

4.4 Taxes.

- 4.4.1 With respect to any purchase of service under this Agreement, if any federal, state or local government tax, fee, surcharge, or other tax-like charge excluding any tax levied on property or income (a "Tax") is required or permitted by applicable law, ordinance or tariff to be collected from NTS by GALLATIN, then: (i) GALLATIN will bill, as a separately stated item, NTS for such Tax; (ii) pursuant to Section 4.3.1, NTS will remit such Tax to GALLATIN; and (iii) GALLATIN will remit such collected Tax to the applicable governmental authority as required by law.
- 4.4.2 If GALLATIN does not collect a Tax because NTS asserts that it is not responsible for the Tax, or is otherwise excepted from the obligation which is later determined by formal action to be wrong, then, as between GALLATIN and NTS, NTS will be liable for such uncollected Tax and any interest due and/or penalty assessed on the uncollected Tax by the applicable taxing authority or governmental entity.
- 4.4.3 If either Party is audited by a taxing authority or other governmental entity, the other Party agrees to reasonably cooperate with the Party being audited in order to respond to any audit inquiries in a proper and timely manner so that the audit and/or any resulting controversy may be resolved expeditiously.
- 4.4.4 If applicable law does exclude or exempt a purchase of services under this Agreement from a Tax, and if such applicable law also provides an exemption procedure, such as an exemption certificate requirement, then, if NTS complies with such procedure, GALLATIN, subject to Section 4.4.2, will not bill or collect such Tax during the effective period of the exemption. Such exemption will be effective upon receipt by GALLATIN's Tax Department of the exemption certificate or affidavit in accordance with Section 4.4.7.
- 4.4.5 If applicable law excludes or exempts a purchase of services under this Agreement from a Tax, surcharge or fee and said law also provides an exemption procedure, then GALLATIN will not bill or collect such tax only if NTS: (i) furnishes GALLATIN with a completed copy of the taxing authority's exemption certificate specifically for NTS for the services to be purchased; and/or (ii) supplies GALLATIN with an indemnification agreement, acceptable to GALLATIN, which indemnifies GALLATIN for all costs that GALLATIN may incur if a taxing authority disallows the claimed exemption, including, but not limited to, all taxes, fines, penalties, interest and attorneys' fees, and holds GALLATIN harmless on an after-tax basis with respect to forbearing to collect such Tax. GALLATIN will bill NTS for all taxes that do not have a valid taxing authority exemption certificate on file.
- 4.4.6 With respect to any Tax or Tax controversy covered by this Section 4.4, NTS will be entitled to contest, pursuant to applicable law, and at its own expense, any Tax that it is ultimately obligated to pay. NTS will be entitled to the benefit of any refund or recovery resulting from such a contest.

- 4.4.7 All exemption certificates or other communications required or permitted to be given by NTS to GALLATIN under this Section 4.4, must be made in writing, must be issued to the GALLATIN entity per this Agreement, must be complete and must be delivered to GALLATIN's Tax Department.

5 Term and Termination.

5.1 Effective Date.

This Agreement will be effective upon the Effective Date set forth at the beginning of this 251/252 Agreement. The Parties agree ASR and LSR orders for resold services, INP services, and unbundled network elements will not be submitted or accepted within the first ten (10) business days after the Effective Date. NTS will provide GALLATIN with an estimate of the anticipated number of orders as requested in the CLEC Profile.

3.4 Term.

Subject to the termination provisions contained in this Agreement, the term of this Agreement shall be for three (3) years from the Effective Date.

Renegotiation

If either Party seeks to renegotiate, extend or amend this Agreement, it must provide written notice thereof to the other Party no later than six (6) months prior to the Termination Date. Any such request shall be deemed by both Parties to be a good faith request for negotiations pursuant to Section 252 of the Act (or any successor provision), regardless of which Party made such request. If either Party makes such request, this Agreement may remain in effect for a period not to exceed three (3) months following the Termination Date, for the purpose of incorporating into the new agreement any arbitration decision or related order issued within three (3) months prior to the end of such six (6) month period.

5.3 Termination Upon Default or Abandonment.

Either Party may terminate this Agreement prior to the Termination Date in whole or in part in the event of a default by the other Party; provided, however, that the non-defaulting Party notifies the defaulting Party in writing of the alleged default and that the defaulting Party does not cure the alleged default within sixty (60) calendar days of receipt of written notice thereof. Default is defined to include:

- 5.3.1 A Party's insolvency or the initiation of bankruptcy or receivership proceedings by or against the Party which have not been removed or vacated within sixty (60) days; or
- 5.3.2 A Party's refusal or failure in any material respect to perform its obligations under this Agreement, or the violation of any of the material terms or conditions of this Agreement, including the payment of any amounts when due hereunder.

In addition, this Agreement may be terminated by GALLATIN if NTS has not placed an order for a service or facility hereunder by one year following the Effective Date. If NTS has not placed an order within one year, GALLATIN shall provide NTS with notice of GALLATIN's intent to terminate the Agreement. NTS shall have thirty (30) calendar days to indicate in writing to GALLATIN that NTS intends to place orders within thirty (30) calendar days. If NTS cannot meet this timeframe for placing orders, NTS shall notify GALLATIN in writing of when it intends to do so. If NTS does not intend to place orders,

this Agreement shall be deemed suspended and GALLATIN shall apply to the Illinois Commerce Commission to terminate the Agreement.

5.4 Liability Upon Termination.

Termination of this Agreement, or any part hereof, for any cause shall not release either Party from any liability which at the time of termination had already accrued to the other Party or which thereafter accrues in any respect to any act or omission occurring prior to the termination or from an obligation which is expressly stated in this Agreement to survive termination.

5.5 Assignment.

The rights and obligations of NTS and GALLATIN under this agreement shall inure to the benefit of and shall be binding upon the successors and assigns of NTS and GALLATIN. Neither party shall delegate its obligations and responsibilities or assign its benefits hereunder without written consent of the other party, which consent shall not be unreasonably withheld; provided, that without the consent of the other party, (i) the parties may assign their rights and obligations under this Agreement to any controlling parent corporation; (ii) the parties may assign their rights and obligations under this Agreement to any wholly owned or partially owned affiliate or subsidiary, or any entity under common control with the party; (iii) the parties may assign their rights and obligations to a purchaser of all or substantially all of the assets or business of the party; and (iv) the parties may assign this Agreement as security for indebtedness. This does not relieve either party of any financial obligations hereunder including, but not limited to, deposits, etc.

5.6 252(i) Adoptions.

NTS shall have the right to adopt any publicly filed agreement, or any interconnection, resale, collocation or network element arrangement contained therein, to which GALLATIN is a Party and that has been approved by the Commission for the State pursuant to section 252 of the 1996 Act subsequent to the approval of this Agreement. This right shall be exercised in accordance with, and subject to, the requirements of 47 U.S.C. § 252(i) and applicable rules and regulations, including without limitation, the following: (a) NTS must adopt all of the terms and conditions "legitimately related" to, and thus constituting part of, the requested interconnection, resale, collocation or network element arrangement; (b) GALLATIN shall not be required to provide a given arrangement or agreement to NTS if it is either (i) more costly than providing it to the original carrier, or (ii) technically infeasible; (c) to the extent inconsistent with such adopted arrangement or agreement, this Agreement shall be superseded by the adopted arrangement or agreement; and (d) the parties shall document said adoption in writing and make an appropriate filing with the Commission pursuant to applicable procedures.

ARTICLE III GENERAL PROVISIONS

1. Regulatory/Legal Matters.

1.1 Regulatory Approvals.

This Agreement will be submitted to the Commission for approval. Each Party shall be responsible for obtaining and keeping in effect its FCC, Commission, franchise authority and other regulatory approvals that may be required in connection with the performance of its obligations under this Agreement. NTS shall provide Gallatin with an officer's certificate verifying NTS has all necessary regulatory approvals to conduct business as identified in this Agreement. If either Party does not provide necessary filing materials within sixty (60) days of execution of this Agreement, any contract signatures will no longer be effective. A new Agreement will be required.

3.4 Applicable Law/Changes in Law.

Each Party shall comply with all federal, state, and local statutes, regulations, rules, ordinances, judicial decisions, and administrative rulings applicable to its performance under this Agreement. The terms and conditions of this Agreement were composed in order to effectuate the legal requirements in effect at the time this Agreement was negotiated and approved, and shall be subject to any and all applicable statutes, regulations, rules, ordinances, judicial decisions, and administrative rulings that subsequently may be prescribed by any federal, state or local governmental authority having appropriate jurisdiction. Except as otherwise expressly provided herein, such subsequently prescribed statutes, regulations, rules, ordinances, judicial decisions, and administrative rulings will be deemed to automatically supersede any conflicting terms and conditions of this Agreement. In addition, subject to the requirements and limitations set forth in Section 1.3, to the extent required or reasonably necessary, the Parties shall modify, in writing, the affected term(s) and condition(s) of this Agreement to bring them into compliance with such statute, regulation, rule, ordinance, judicial decision or administrative ruling.

1.3 Severability/Unenforceable Terms.

If any provision of this Agreement is held by a court or regulatory agency of competent jurisdiction to be unenforceable, the rest of the Agreement shall remain in full force and effect and shall not be affected unless removal of that provision results, in the reasonable opinion of either Party, in a material change to this Agreement. If a material change occurs as a result of action by a court or regulatory agency of competent jurisdiction, the Parties shall negotiate in good faith for replacement language. If replacement language cannot be agreed upon within a reasonable period, either Party may, subject to its obligations under applicable law, terminate this Agreement without penalty or liability upon written notice to the other Party. If replacement language cannot be agreed upon by the parties, the parties agree to arbitrate their disputes or seek other dispute resolution remedies available under this Agreement or applicable state or federal law.

1.4 Reservation of Rights.

The Parties agree that their entrance into this Agreement is without prejudice to and does not waive any positions they may have taken previously, or may take in the future, in any legislative, regulatory, judicial or other public forum addressing any matters, including, without limitation, matters related to GALLATIN's cost recovery set forth in this

Agreement. Moreover, except as expressly provided herein, neither Party waives any right with respect to any position it may take in the future with respect to the establishment of rates, terms and conditions related to the subject matter of this Agreement which may become effective subsequent to the termination of this Agreement. GALLATIN and NTS further agree that the terms and conditions of this Agreement reflect certain requirements of the FCC Orders, and thus, except as provided herein, shall be subject to any and all actions by any court or other governmental authority that invalidate, stay, vacate or otherwise modify any such FCC Orders. NTS acknowledges that GALLATIN may seek to enforce such action before a commission or court of competent jurisdiction. This Section 1.4 shall survive the termination, expiration, modification or rescission of this Agreement without limit as to time, regardless of the date of said action.

1.5 Certificate of Operating Authority.

When ordering any service or facility hereunder, NTS hereby represents and warrants to GALLATIN that it is a certified provider of ISP services, and that any services that it provides under this agreement shall be in conformance with its Certificate of Operating Authority. NTS will provide a copy of its Certificate of Operating Authority or other evidence of its status to GALLATIN when submitting the CLEC Profile.

2. Liability Matters.

3.4 Indemnification.

2.1.1 General Requirement. Subject to the limitations set forth in Section 2.7, each Party (the "Indemnifying Party") shall release, defend, indemnify and save harmless the other Party, its directors, officers, employees, servants, agents, affiliates, subsidiaries and parent, and any third-party provider or operator of facilities involved in the provision of services or facilities under this Agreement (collectively, the "Indemnified Party"), from and against any and all suits, claims, obligations, liabilities, damages, demands, losses, expenses, causes of action and costs, deficiencies, taxes, interest on taxes, or penalties, court costs and reasonable attorneys' fees, injuries, damage, destruction, loss or death to property or persons (including payments made under workers' compensation law or under any plan for employees' disability and death benefits) and actual or alleged defamation, libel, slander, interference with or misappropriation of proprietary or creative right, suffered, made, instituted, or asserted by the Indemnified Party or any other party or person, including, without limitation, the Indemnified Party's Customers (collectively, the "Indemnification Claims") which are proximately caused by:

- 2.1.1.1 any breach or nonfulfillment of any representation, covenant, term, condition or agreement on the part of the Indemnifying Party under this Agreement;
- 2.1.1.2 the negligence or willful misconduct of the Indemnifying Party or any of its directors, officers, employees, servants, agents, affiliates, subsidiaries and parent, regardless of the form of action;
- 2.1.1.3 the installation, maintenance, repair, replacement, presence, engineering, use or removal of the Indemnifying Party's collocation equipment, in GALLATIN's central office(s), wire center(s) or access tandem(s);
- 2.1.1.4 the violation or alleged violation by the Indemnifying Party or any of its directors, officers, employees, servants, agents, affiliates, subsidiaries and parent of any federal, state, or local law, regulation, permit, or agency requirement; or

- 2.1.1.5 the presence of contamination arising out of the Indemnifying Party's acts or omissions concerning its operations at a GALLATIN Facility per section 2.2.

To the extent the Indemnified Party pays for an indemnifiable loss, cost or expense, or otherwise incurs pecuniary obligations, in satisfaction of, or arising out of or related to any Indemnification Claim, the Indemnifying Party shall also be liable to the Indemnified Party for interest on such payments from the date that the Indemnified Party makes such payments. The obligations of this Section shall survive the termination, cancellation, modification or rescission of this Agreement, without limit as to time.

2.1.2 Notice and Claim Procedure.

- 2.1.2.1 General Requirements. The Indemnified Party: (i) shall give the Indemnifying Party notice (which shall include all facts known to the Indemnified Party giving rise to such right and an estimate of the amount thereof) of the Indemnification Claim and any Third Party Claim (as hereinafter defined) relating to such right promptly after receipt or becoming aware thereof; (ii) prior to taking any material action with respect to a Third Party Claim, shall consult with the Indemnifying Party as to the procedure to be followed in defending, settling, or compromising the Third Party Claim; (iii) shall not consent to any settlement or compromise of the Third Party Claim without the written consent of the Indemnifying Party (which consent, unless the Indemnifying Party has elected to assume the *exclusive defense of such Claim, shall not be unreasonably withheld or delayed*); (iv) shall permit the Indemnifying Party, if it so elects, to assume the defense of such Third Party Claim (including, except as provided below, the compromise or settlement thereof) at its own cost and expense; provided, however, that in such event the Indemnified Party shall have the right to approve the Indemnifying Party's choice of legal counsel, which approval shall not be unreasonably withheld; and (v) shall cooperate in every reasonable way to facilitate defense or settlement of claims. For the purposes of this Agreement, "Third Party Claim" shall mean any Indemnification Claim by any third party.

- 2.1.2.2 Consultation and Consent. If the Indemnified Party: (i) fails to notify or to consult with the Indemnifying Party with respect to any Third Party Claim in accordance with subparagraph 2.1.2.1(i) or 2.1.2.1(ii) above (which failure shall have a material and adverse effect upon the Indemnifying Party); or (ii) consents to the settlement or compromise of any Third Party Claim without having received the written consent of the Indemnifying Party (unless, if the Indemnifying Party has not elected to assume the defense of such Claim, the consent of the Indemnifying Party is unreasonably withheld or delayed), then the Indemnifying Party shall be relieved of its indemnification obligation with respect to such Third Party Claim under this Agreement.

- 2.1.2.3 Defense of Claim. If the Indemnifying Party elects to assume the defense of any Third Party Claim pursuant to this Agreement, it shall immediately notify the Indemnified Party in writing of such election. The Indemnifying Party shall not compromise or settle any such Third Party Claim without the written consent of the Indemnified Party (which consent shall not be unreasonably withheld or delayed).

2.1.3 Intellectual Property Exception. Neither Party shall have any obligation to defend, indemnify or hold harmless, or acquire any license or right for the benefit of, or owe any other obligation or have any liability to, the other based on or arising from any claim, demand, or proceeding by any third party alleging or asserting that the use of any circuit, apparatus, or system, or the use of any software, or the performance of any service or method, or the provision or use of any

facilities by either Party under this Agreement constitutes direct or contributory infringement, or misuse or misappropriation of any patent, copyright, trademark, trade secret, or any other proprietary or intellectual property right of any third party.

2.2 Environmental Responsibility.

2.2.1 General Requirements. NTS shall:

- 2.2.1.1 comply with all laws regarding the handling, use, transport, storage, and disposal of, and be responsible for all hazards created by and damages or injuries caused by, any materials brought to or used at the GALLATIN Facility by NTS;
- 2.2.1.2 ensure all activities conducted by NTS at the GALLATIN Facility are in accordance with all applicable federal, state, and local laws, regulations, permits, and agency orders, approvals, and authorizations relating to safety, health, and the environment;
- 2.2.1.3 cause its invitees, agents, employees, and contractors to comply with such reasonable environmental or safety practices/procedures, whether or not required by law, as requested by GALLATIN when working at a GALLATIN Facility;
- 2.2.1.4 ensure that no substantial new safety or environmental hazards shall be created by NTS (or any entity or person(s) within the control of NTS) or new hazardous substances shall be used at a GALLATIN Facility;
- 2.2.1.5 demonstrate adequate training and emergency response capabilities related to materials brought to by NTS (or any entity or person(s) within the control of NTS) at the GALLATIN Facility;
- 2.2.1.6 follow appropriate practices/procedures in evaluating and managing any water, sediment, or other material present in the manhole or vault area so as to ensure compliance with all applicable laws, regulations, permits, and requirements applicable in such circumstances and to ensure safe practices, when conducting operations in any GALLATIN manhole or vault area;
- 2.2.1.7 obtain and use its own environmental permits, approvals, or identification numbers to the extent that such permits, approvals, or identification numbers are required under applicable laws, including, without limitation, any of its operations involving the evaluation, collection, discharge, storage, disposal, or other management of water, sediment, or other material present in a GALLATIN manhole or vault area;
- 2.2.1.8 provide reasonable and adequate compensation to GALLATIN for any additional or increased costs associated with compliance with any federal, state, or local law, regulation, permit, or agency requirement related to safety, health, or the environment where such additional or increased cost is incurred as a result of providing NTS with interconnection or collocation, including, but not limited to, costs associated with obtaining appropriate permits or agency authorizations or approvals, re-mediation or response to any release or threatened release of any regulated substance, investigation or testing related, and training or notification requirements;

2.2.1.9 ensure that activities impacting safety or the environment of a Right of Way ("ROW") are harmonized with the specific agreement and the relationship between GALLATIN and the land owner; and

2.2.1.10 comply with any limitations associated with a ROW, including limitations on equipment access due to environmental conditions (e.g., wetland areas having equipment restrictions).

GALLATIN shall not be responsible for any costs incurred by NTS in meeting its obligations under this Section.

2.2.2 Required Notices. GALLATIN and NTS shall provide to each other specific notice of known and recognized physical hazards or hazardous substances brought to, used, or existing at the GALLATIN Facility and conditions or circumstances potentially posing a threat of imminent danger, including, by way of example only, a defective utility pole or significant petroleum contamination in a manhole. If NTS discovers any contamination at a GALLATIN Facility, NTS will immediately notify GALLATIN and will consult with GALLATIN prior to making any required notification, unless the time required for prior consultation would preclude NTS from complying with an applicable reporting requirement. GALLATIN and NTS shall coordinate plans or information required to be submitted to government agencies, such as, by way of example only, emergency response plans and chemical inventory reporting. If fees are associated with such filings, NTS shall be responsible for any costs incurred with filings for such contamination it is responsible for. If GALLATIN and NTS are jointly responsible for the contamination, the Parties shall develop a cost sharing procedure for fees related to such filings.

2.2.3. Permits. NTS shall obtain and use its own permits, approval, or identification numbers to the extent that such permits, approvals, or identification numbers are required under applicable laws.

2.2.4. No Warranty. The Parties acknowledge and agree that: (i) nothing in this Agreement or in any of GALLATIN's practices/procedures constitutes a warranty or representation by GALLATIN that NTS will achieve compliance with any applicable law; and (ii) nothing in this Agreement or in any of NTS's practices/procedures constitutes a warranty or representation by NTS that Gallatin will achieve compliance with any applicable law and (iii) such compliance creates no right of action against GALLATIN or NTS.

2.3 Insurance.

2.3.1 Coverage Limits. NTS shall, at its sole cost and expense, obtain, maintain, pay for and keep in force the following minimum insurance, underwritten by an insurance company(s) having a Best's insurance rating of at least AA-12, financial size category VII.

2.3.1.1 Resellers and Other Non-Facilities Based CLECs.

2.3.1.1.1 Commercial general liability coverage on an occurrence basis in an amount of \$1,000,000 combined single limit for bodily injury and property damage with a policy aggregate per location of \$2,000,000.

- 2.3.1.1.1 Workers Compensation coverage in the amount of \$500,000 each accident/each employee/disease-policy limit.
- 2.3.1.1.2 Employers Liability coverage in an amount of \$1,000,000 each accident.
- 2.3.1.1.3 Commercial Automobile Liability coverage insuring all owned, hired and non-owned automobiles.

2.3.1.2 Facilities Based CLECs.

- 2.3.1.2.1 Commercial general liability coverage on an occurrence basis in an amount of \$1,000,000 combined single limit for bodily injury and property damage with a policy aggregate per location of \$2,000,000.
- 2.3.1.2.2 Umbrella/Excess Liability coverage in an amount of \$1,000,000 excess of coverage specified in 2.3.1.1 above.
- 2.3.1.2.3 \$50,000 fire damage coverage for NTS's real and personal property located on or within GALLATIN wire centers. NTS may also elect to purchase business interruption and contingent business interruption insurance, knowing that GALLATIN has no liability for loss of profit or revenues should an interruption of service occur.
- 2.3.1.2.4 Workers Compensation coverage in the amount of \$500,000 each accident/each employee/disease-policy limit.
- 2.3.1.2.5 Employers Liability coverage in an amount of \$2,000,000 each accident.
- 2.3.1.2.6 Commercial Automobile Liability coverage insuring all owned, hired and non-owned automobiles.

The minimum amounts of insurance required in this section, may be satisfied by NTS purchasing primary coverage in the amounts specified or by NTS buying a separate umbrella and/or excess policy together with lower limit primary underlying coverage. The structure of the coverage is at NTS's option, so long as the total amount of insurance meets GALLATIN's minimum requirements. The limits of the insurance policies obtained by NTS as required above shall in no way limit NTS's liability to GALLATIN should NTS be liable to GALLATIN under the terms of this Agreement or otherwise.

- 2.3.2 Deductibles. Any deductibles, self-insured retentions ("SIR"), loss limits, retentions, etc. (collectively, "Retentions") must be disclosed on a certificate of insurance provided to GALLATIN's Manager of Industry Relations, and GALLATIN reserves the right to reject any such Retentions in its reasonable discretion. All Retentions shall be the responsibility of NTS.
- 2.3.3 Additional Insureds. GALLATIN and its affiliates (which includes any corporation controlled by, controlling or in common control with GALLATIN River

Communications, LLC) their respective directors, officers and employees shall be named as additional insureds under all General Liability and Umbrella/Excess Liability Policies obtained by NTS. Said endorsement shall provide that such additional insurance is primary insurance and shall not contribute with any insurance or self-insurance that GALLATIN has secured to protect itself. All of the insurance afforded by NTS shall be primary in all respects, including NTS's Umbrella/Excess Liability insurance. GALLATIN's insurance coverage shall be excess over any indemnification and insurance afforded by NTS and required hereby.

- 2.3.4 Waiver of Subrogation Rights. NTS waives and will require all of its insurers to waive all rights of subrogation against GALLATIN (including GALLATIN River Communications, LLC and any other affiliated and/or managed entity), its directors, officers and employees, agents or assigns, whether in contract, tort (including negligence and strict liability) or otherwise.
- 2.3.5 Evidence of Insurance. All insurance must be in effect on or before GALLATIN authorizes access by NTS employees or placement of NTS equipment or facilities within GALLATIN premises and such insurance shall remain in force as long as NTS's facilities remain within any space governed by this Agreement. If NTS fails to maintain the coverage, GALLATIN may pay the premiums and seek reimbursement from NTS. Failure to make a timely reimbursement will result in disconnection of service based upon notification and approval by the Commission. NTS agrees to submit to GALLATIN's Manager of Industry Relations a certificate of insurance ACORD Form 25-S (1/95), or latest edition, such certificate to be signed by a duly authorized officer or agent of the Insurer, certifying that the minimum insurance coverages and conditions set forth hereinabove are in effect, and that GALLATIN's Manager of Industry Relations will receive at least thirty (30) calendar days notice of policy cancellation, expiration or non-renewal. At least thirty (30) calendar days prior to the expiration of the policy, GALLATIN must be furnished satisfactory evidence that such policy has been or will be renewed or replaced by another policy. At GALLATIN's request, NTS shall provide copies of the insurance provisions or endorsements as evidence that the required insurance has been procured, and that GALLATIN has been named as an additional insured, prior to commencement of any service. In no event shall permitting NTS access be construed as a waiver of the right of GALLATIN to assert a claim against NTS for breach of the obligations established in this section.
- 2.3.6 Compliance Requirements. NTS shall require its contractors to comply with each of the provisions of this insurance section. This includes, but is not limited to, maintaining the minimum insurance coverages and limits, naming GALLATIN (Gallatin River Communications, LLC, its affiliates or assigns) as an additional insured under all liability insurance policies, and waiving all rights of subrogation against GALLATIN (Gallatin River Communications, LLC, its affiliates or assigns), its directors, officers and employees, agents or assigns, whether in contract, tort (including negligence and strict liability) or otherwise. Prior to commencement of any work, NTS shall require and maintain certificates of insurance from each contractor evidencing the required coverages. At GALLATIN's request, NTS shall supply to GALLATIN's Manager of Industry Relations copies of such certificates of insurance or require the contractors to provide insurance provisions or endorsements as evidence that the required insurance has been procured. NTS must also conform to the recommendation(s) made by GALLATIN's fire insurance company, which GALLATIN has already agreed to or shall hereafter agree to.

2.4 Impairment of Service.

The characteristics and methods of operation of any circuits, facilities or equipment of NTS connected with the services, facilities or equipment of GALLATIN pursuant to this Agreement shall not interfere with or impair service over any facilities of GALLATIN, its affiliated companies, or its connecting and concurring carriers involved in its services, cause damage to its plant, violate any applicable law or regulation regarding the invasion of privacy of any communications carried over GALLATIN's facilities or create hazards to the employees of GALLATIN or to the public (each hereinafter referred to as an "Impairment of Service"). If NTS causes an Impairment in Service, GALLATIN shall promptly notify NTS of the nature and location of the problem and that, unless promptly rectified, a temporary discontinuance of the use of any circuit, facility or equipment may be required. GALLATIN and NTS agree to work together to attempt to promptly resolve the Impairment of Service. If NTS is unable to promptly remedy the Impairment of Service, then GALLATIN may at its option temporarily discontinue the use of the affected circuit, facility or equipment.

2.5 Fraud.

NTS assumes responsibility for all fraud associated with its Customers and accounts. GALLATIN shall bear no responsibility for, nor is it required to make adjustments to NTS's account in cases of fraud.

2.6 DISCLAIMER.

EXCEPT AS SPECIFICALLY PROVIDED TO THE CONTRARY IN THIS AGREEMENT, GALLATIN MAKES NO EXPRESS OR IMPLIED REPRESENTATIONS OR WARRANTIES TO NTS CONCERNING THE SPECIFIC QUALITY OF ANY SERVICES AND/OR FACILITIES PROVIDED UNDER THIS AGREEMENT. PROVIDER DISCLAIMS, WITHOUT LIMITATION, ANY WARRANTY OR GUARANTEE OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, ARISING FROM COURSE OF PERFORMANCE, COURSE OF DEALING, OR FROM USAGES OF TRADE.

2.7 Limitation of Liability.

Where applicable, each Party's liability under this Agreement to the other Party, whether direct or otherwise arising out of the duty to indemnify against a third-party under this Section 2, or whether in contract, tort or otherwise, shall be limited to direct damages, and except with respect to Indemnification Claims relating to personal injury, environmental, fraud or any issue arising from collocation related matters, said liability shall not exceed the monthly charges, plus any related costs/expenses either Party may recover, and plus any costs/expenses for which the Parties specify reimbursement in this Agreement for the services or facilities for the month during which the claim of liability arose. Under no circumstance shall either Party be responsible or liable for indirect, incidental, consequential, special, punitive or exemplary damages, including, but not limited to, interruption of service or designated facilities, economic loss or lost business, revenues or profits, loss of AC or DC power, HVAC interruptions, damages arising from the use or performance of equipment or software, or the loss of use of software or equipment, or any accessories attached thereto, delay, error, or loss of data, even if the Party has been advised of the possibility of the same. Should either Party provide advice, make recommendations, or supply other analysis related to the services or facilities described in this Agreement, this limitation of liability shall apply to provision of such advice, recommendations and analysis.

3.4 Inapplicability of Tariff Liability.

GALLATIN's general liability, as described in GALLATIN's tariffs, does not extend to NTS's customers or any other third party. Liability of GALLATIN to NTS resulting from any and all causes arising out of services and facilities or any other items relating to this Agreement shall be governed by the liability provisions contained in this Agreement and no other liability whatsoever shall attach to GALLATIN. GALLATIN shall be liable for the individual services, facilities or elements that it separately provides to NTS and shall not be liable for the integration of components combined by NTS.

2.9 NTS Tariffs or Contracts.

NTS shall, in its tariffs or other contracts for services provided to its customers using services obtained from GALLATIN, provide that in no case shall GALLATIN be liable to NTS's customers or any third parties for any indirect, special or consequential damages, including, but not limited to, economic loss or lost business or profits, whether foreseeable or not, and regardless of notification by NTS of the possibility of such damages, and NTS shall indemnify and hold GALLATIN harmless from any and all claims, demands, causes of action and liabilities based on any reason whatsoever from its customers as provided in this Agreement. Nothing in this Agreement shall be deemed to create a third-party beneficiary relationship with NTS's customers. Levels of performance consistent with normal installation and business practices which call for the installation of service within seven (7) calendar business days will apply to all loops ordered by NTS. If within any thirty (30) day period 95% of the NTS ordered installations are not completed within seven calendar days, Gallatin will waive the NRC installation charges associated with those loops, not installed within that seven calendar day period. Loops, determined by Gallatin, incapable of DSL service, shall be exempt from this procedure and will not be included within the calculations for GRC service performance.

2.10 No Liability for Errors.

GALLATIN is not liable for mistakes generated by NTS that appear in GALLATIN's listings and other informational databases, or for incorrect referrals of customers to NTS for any ongoing NTS service, sales or repair inquiries. With respect to such mistakes, NTS shall indemnify and hold GALLATIN harmless from any and all claims, demands, causes of action and liabilities whatsoever, including costs, expenses and reasonable attorney's fees incurred on account thereof, by third parties, including NTS's customers or employees. For purposes of this Section 2, mistakes and incorrect referrals shall not include matters arising out of the willful misconduct of GALLATIN or its employees or agents.

2.11 Unlawful Use of Service.

Services provided by GALLATIN pursuant to this Agreement shall not be used by NTS or its customers for any purpose in violation of law. NTS, and not GALLATIN, shall be responsible to ensure that NTS and its customers' use of services provided hereunder comply at all times with all applicable laws. GALLATIN may refuse to furnish service to NTS or disconnect particular services provided under this Agreement to NTS or, as appropriate, NTS's customer when: (i) an order is issued by a court of competent jurisdiction finding that probable cause exists to believe that the use made or to be made of the service is prohibited by law; or (ii) GALLATIN is notified in writing by a law enforcement agency acting within its jurisdiction that any facility furnished by GALLATIN is being used or will be used for the purpose of transmitting or receiving gambling information in interstate or foreign commerce in violation of law. Termination of service shall take place after reasonable notice is provided to NTS, or as ordered by the court. If facilities have been physically disconnected by law enforcement officials at the premises

where located, and if there is not presented to GALLATIN the written finding of a court, then upon request of NTS and NTS's agreement to pay restoral of service charges and other applicable service charges, GALLATIN shall promptly restore such service.

3. Dispute Resolution.

3.1 Alternative to Litigation.

Except as provided under Section 252 of the Act with respect to the approval of this Agreement by the Commission, the Parties desire to resolve disputes arising out of or relating to this Agreement without litigation. Accordingly, the Parties agree to use the following alternative dispute resolution procedures as the sole remedy with respect to any action, dispute, controversy or claim arising out of or relating to this Agreement or its breach, except with respect to the following:

3.1.1 an action seeking a temporary restraining order or an injunction related to the purposes of this Agreement;

3.1.2 a dispute, controversy or claim relating to or arising out of a change in law or reservation of rights under the provisions of Article III, Section 1; and

3.1.3 a suit to compel compliance with this dispute resolution process.

Any such actions, disputes, controversies or claims may be pursued by either Party before any court, commission or agency of competent jurisdiction.

3.2 Negotiations.

At the written request of a Party, each Party will appoint a knowledgeable, responsible representative to meet and negotiate in good faith to resolve any dispute arising out of or relating to this Agreement. The location, format, frequency, duration, and conclusion of these discussions shall be left to the discretion of the representatives. Upon agreement, the representatives may utilize other alternative dispute resolution procedures such as mediation to assist in the negotiations. Discussions and correspondence among the representatives for purposes of these negotiations shall be treated as Confidential Information developed for purposes of settlement, but not exempt from discovery and shall be admissible in the arbitration described below or in any lawsuit without the concurrence of all Parties. Documents identified in or provided with such communications, which are not prepared for purposes of the negotiations, may, if otherwise discoverable or admissible, be discovered, or be admitted in evidence, in the arbitration or lawsuit.

3.3 Arbitration.

If the negotiations do not resolve the dispute within sixty (60) calendar days of the initial written request, the dispute shall be submitted by either Party or both Parties (with a copy provided to the other Party) to binding arbitration by a single arbitrator pursuant to the Commercial Arbitration Rules of the American Arbitration Association, unless both parties mutually agree to extend the sixty (60) calendar day deadline. The Parties may also select an arbitrator outside American Arbitration Association rules upon mutual agreement. A Party may demand such arbitration in accordance with the procedures set out in those rules. Discovery shall be controlled by the arbitrator and shall be permitted to the extent set out in this section. Each Party may submit in writing to a Party, and that Party shall so respond to, a maximum of any combination of thirty-five (35) (none of which may have subparts) of the following: interrogatories, demands to produce

documents, or requests for admission. Each Party is also entitled to take the oral deposition of one individual of another Party. Additional discovery may be permitted upon mutual agreement of the Parties. The arbitration hearing shall be commenced within sixty (60) calendar days of the demand for arbitration. The arbitration shall be held in a mutually agreeable city. The arbitrator shall control the scheduling so as to process the matter expeditiously. The Parties may submit written briefs. The arbitrator shall rule on the dispute by issuing a written opinion within thirty (30) business days after the close of hearings. The times specified in this section may be extended upon mutual agreement of the Parties or by the arbitrator upon a showing of good cause. Judgment upon the award rendered by the arbitrator shall be deemed final, binding and nonappealable and may be entered in any court having jurisdiction.

3.4 Expedited Arbitration Procedures.

If the issue to be resolved through the negotiations referenced in Section 3.2 directly and materially affects service to either Party's end user Customers, then the period of resolution of the dispute through negotiations before the dispute is to be submitted to binding arbitration shall be five (5) business days. Once such a service affecting dispute is submitted to arbitration, the arbitration shall be conducted pursuant to the expedited procedures rules of the Commercial Arbitration Rules of the American Arbitration Association (i.e., rules 53 through 57).

3.5 Costs.

Each Party shall bear its own costs involving Litigation or Arbitration. A Party seeking discovery shall reimburse the responding Party the costs of production of documents (including search time and reproduction costs). The Parties shall equally split the fees of the arbitration and the arbitrator.

3.6 Continuous Service.

The Parties shall continue providing services to each other during the pendency of any dispute resolution procedure, and the Parties shall continue to perform their obligations, including making payments in accordance with Article II, Section 4.3 of this Agreement.

4.0 Confidential Information.

4.1 Identification.

Either Party may disclose to the other proprietary or confidential Customer, technical, or business information in written, graphic, oral or other tangible or intangible forms ("Confidential Information"). In order for information to be considered Confidential Information under this Agreement, it must be marked "Confidential" or "Proprietary," or bear a marking of similar import. Orally or visually disclosed information shall be deemed Confidential Information only if contemporaneously identified as such and reduced to writing and delivered to the other Party with a statement or marking of confidentiality within thirty (30) calendar days after oral or visual disclosure. Notwithstanding the foregoing, the following shall be deemed Confidential Information for all purposes under this Agreement whether or not specifically marked or designated as confidential or proprietary: (i) preorders and all orders for services or UNEs placed by NTS pursuant to this Agreement, and information that would constitute Customer Proprietary Network Information of NTS end user Customers pursuant to the Act and the rules and regulations of the FCC, as well as recorded usage information with respect to NTS Customers, whether disclosed by NTS to GALLATIN or otherwise acquired by GALLATIN in the course of its performance under this Agreement; and (ii) all information of a competitive

nature provided to a Party in connection with collocation or known to the Party as a result of access to GALLATIN's wire center(s), central office(s) or access tandem(s) or as a result of the interconnection of NTS's equipment to GALLATIN's facilities.

4.2 Handling.

In order to protect Confidential Information from improper disclosure, each Party shall not use or disclose and shall hold in confidence Confidential Information and hereby agrees:

that all Confidential Information shall be and shall remain the exclusive property of the source;

to limit access to such Confidential Information to authorized employees who have a need to know the Confidential Information for performance of this Agreement;

to keep such Confidential Information confidential and to use the same level of care to prevent disclosure or unauthorized use of the received Confidential Information as it exercises in protecting its own Confidential Information of a similar nature;

not to copy, publish, or disclose such Confidential Information to others or authorize anyone else to copy, publish, or disclose such Confidential Information to others without the prior written approval of the source;

upon the source's request, to return or destroy promptly any copies of such Confidential Information at its request; and

to use such Confidential Information only for purposes of fulfilling work or services performed hereunder and for other purposes only upon such terms as may be agreed upon between the Parties in writing.

4.3 Exceptions.

These obligations shall not apply to any Confidential Information that: (i) was legally in the recipient's possession prior to receipt from the source; (ii) was received in good faith from a third party not subject to a confidential obligation to the source; (iii) now is or later becomes publicly known through no breach of confidential obligation by the recipient; (iv) was developed by the recipient without the developing persons having access to any of the Confidential Information received in confidence from the source; or (v) is required to be disclosed pursuant to subpoena or other process issued by a court or administrative agency having appropriate jurisdiction; provided, however, that the recipient shall give prior notice to the source and shall reasonably cooperate if the source deems it necessary to seek protective arrangements. GALLATIN reserves the right to provide to any information service provider a list of any and all telecommunications providers doing business with GALLATIN. Nothing in this Section 4 is intended to expand or limit the Parties' rights and obligations under Section 222 of the Act.

4.4 Survival.

The obligation of confidentiality and use with respect to Confidential Information disclosed by one party to the other shall survive any termination of this Agreement for a period of three (3) years from the date of the initial disclosure of the Confidential Information.

5.0 Miscellaneous.

5.1 Binding Effect.

This Agreement shall be binding on and inure to the benefit of the respective successors and permitted assigns of the Parties.

5.2 Consent.

Where consent, approval, or mutual agreement is required of a Party, it shall not be conditional, unreasonably withheld, or delayed.

5.3 Expenses.

Except as specifically set out in this Agreement, each Party shall be solely responsible for its own expenses involved in all activities related to the subject of this Agreement.

5.4 Force Majeure.

In the event performance of this Agreement, or any obligation hereunder, is either directly or indirectly prevented, restricted, or interfered with by reason of fire, flood, earthquake or acts of God, wars, revolution, civil commotion, explosion, acts of public enemy, embargo, acts of the government in its sovereign capacity, labor difficulties, including without limitation, strikes, slowdowns, picketing, or boycotts, unavailability of equipment from vendor, changes requested by Customer, or any other circumstances beyond the reasonable control and without the fault or negligence of the Party affected, the Party affected, upon giving prompt notice to the other Party, shall be excused from such performance on a day-to-day basis to the extent of such prevention, restriction, or interference (and the other Party shall likewise be excused from performance of its obligations on a day-to-day basis until the delay, restriction or interference has ceased); provided, however, that the Party so affected shall use diligent efforts to avoid or remove such causes of nonperformance and both Parties shall proceed whenever such causes are removed or cease.

5.5 Good Faith Performance.

In the performance of their obligations under this Agreement, the Parties shall act in good faith. In situations in which notice, consent, approval or similar action by a Party is permitted or required by any provision of this Agreement, such action shall not be conditional, unreasonably withheld or delayed.

5.6 Governing Law.

This Agreement shall be governed by and construed in accordance with the Telecommunications Act of 1996, applicable federal and (to the extent not inconsistent therewith) domestic laws of the state where the services are provided or the facilities reside and shall be subject to the exclusive jurisdiction of the courts therein.

5.7 Headings.

The headings in this Agreement are inserted for convenience and identification only and shall not be considered in the interpretation of this Agreement.

5.8 Independent Contractor Relationship.

The persons provided by each Party shall be solely that Party's employees and shall be under the sole and exclusive direction and control of that Party. They shall not be considered employees of the other Party for any purpose. Each Party shall remain an independent contractor with respect to the other and shall be responsible for compliance with all laws, rules and regulations involving, but not limited to, employment of labor, hours of labor, health and safety, working conditions and payment of wages. Each Party shall also be responsible for payment of taxes, including federal, state and municipal taxes, chargeable or assessed with respect to its employees, such as Social Security, unemployment, workers' compensation, disability insurance, and federal and state withholding.

5.9 Multiple Counterparts.

This Agreement may be executed in multiple counterparts, each of which shall be deemed an original, but all of which shall together constitute but one and the same document.

5.10 No Third Party Beneficiaries.

Except as may be specifically set forth in this Agreement, this Agreement does not provide and shall not be construed to provide third parties with any remedy, claim, liability, reimbursement, cause of action, or other right or privilege.

5.11 Notices.

Any notice to a Party required or permitted under this Agreement shall be in writing and shall be deemed to have been received on the date of service if served personally; or on the date receipt is acknowledged in writing by the recipient if delivered by regular U.S. mail, or on the date stated on the receipt if delivered by certified or registered mail or by a courier service that obtains a written receipt. Notice may also be provided by facsimile or email, which shall be effective if sent before 3:00 p.m. on that day, or if sent after 3:00 p.m. it will be effective on the next Business Day following the date sent; provided, however, that any such notice shall be confirmed via personal delivery, regular U.S. Mail or certified mail/courier service. Any notice shall be delivered using one of the alternatives mentioned in this section and shall be directed to the applicable address or Internet ID indicated below or such address as the Party to be notified has designated by giving notice in compliance with this section:

If to GALLATIN:

GALLATIN River Communications, L.L.C.
Attention:
Stephen V. Murray, Director Regulatory Affairs
103 S Fifth Street
Post Office Box 430
Mebane, NC 27302
Telephone number: 919/563-8109
Facsimile number: 919/563-4993
Internet Address: murrays@madisonriver.net

If to GALLATIN Legal:

GALLATIN River Communications, L.L.C.
Attention: General Counsel
103 S. Fifth Street
Post Office Box 430
Mebane, NC 27302
Telephone number: 919/563-8289
Facsimile number: 919/563-4993
Internet Address: springem@madisonriver.net

If to NTS:

NTS Services Corp.
Attention: Dan Johnson
2209 Broadway Street
Pekin, Illinois 61554
Telephone number: 309-353-3229
Facsimile number: 309-353-3103
Internet Address: d.Johnson@ntslink.net

5.12 Publicity.

Any news release, public announcement, advertising, or any form of publicity pertaining to this Agreement shall be subject to prior written approval of both GALLATIN and NTS.

5.13 Rule of Construction.

No rule of construction requiring interpretation against the drafting Party hereof shall apply in the interpretation of this Agreement. All references to sections, exhibits, attachments, appendices, etc. shall be deemed to be references to sections, exhibits, attachments, appendices, etc. of this Agreement, as amended or superseded from time to time, unless the context shall otherwise require. Each Party hereby incorporates by reference those provisions of its tariffs that govern the provision of any of the services or facilities provided hereunder. If any provision of this Agreement and an applicable tariff or any schedule, exhibit or appendix hereto cannot be reasonably construed or interpreted to avoid conflict, the provision contained in this Agreement shall prevail, provided that in all cases the more specific shall prevail over the more general. The fact that a condition, right, obligation, or other terms appears in this Agreement, but not in any such applicable tariff or any such schedule, exhibit or appendix hereto, shall not alone be interpreted as, or alone be deemed grounds for finding, a conflict.

5.14 Section References.

Except as otherwise specified, references within an Article, Attachment or Appendix of this Agreement to a Section refer to Sections within that same respective Article, Attachment or Appendix.

5.15 Attachments.

All attachments, appendices, exhibits and schedules attached hereto are deemed to be an integral part of this Agreement, and all references to the term Agreement herein shall be deemed to include such attachments, appendices, exhibits and schedules.

5.16 Subcontractors.

Provider may enter into subcontracts with third parties or Affiliates for the performance of any of Provider's duties or obligations under this Agreement.

5.17 Trademarks and Trade Names.

Except as specifically set out in this Agreement, nothing in this Agreement shall grant, suggest, or imply any authority for one Party to use the name, trademarks, service marks, or trade names of the other for any purpose whatsoever.

5.18 Waiver.

The failure of either Party to insist upon the performance of any provision of this Agreement, or to exercise any right or privilege granted to it under this Agreement, shall not be construed as a waiver of such provision or any provisions of this Agreement, and the same shall continue in full force and effect.

5.19 Amendments.

Any amendment, modification, or supplement to this Agreement must be in writing and signed by an authorized representative of each Party. The term "this Agreement" shall include future amendments, modifications, and supplements.

5.20 Assignment.

The rights and obligations of NTS and GALLATIN under this Agreement shall inure to the benefit of and shall be binding upon the successors and assigns of NTS and GALLATIN. Neither party shall delegate its obligations and responsibilities or assign its benefits hereunder without written consent of the other, which consent shall not be unreasonably withheld; provided, that, without the consent of the other party, (i) the parties may assign their rights and obligations under this Agreement to any controlling parent corporation; (ii) the parties may assign their rights and obligations under this Agreement to any wholly owned or partially owned affiliate or subsidiary, or any entity under common control with the party; (iii) the parties may assign their rights and obligations to a purchaser of all or substantially all of the assets or business of the party; and (iv) the parties may assign this Agreement as security for indebtedness.

5.21 Authority.

Each person whose signature appears on this Agreement represents and warrants that he or she has authority to bind the Party on whose behalf he or she has executed this Agreement. Each Party represents he or she has had the opportunity to consult with legal counsel of his or her choosing and NTS has not relied on GALLATIN counsel, pursuant to this Agreement.

5.22 Entire Agreement.

This Agreement constitutes the entire agreement of the Parties pertaining to the subject matter of this Agreement and supersedes all prior agreements, negotiations, proposals, and representations, whether written or oral, and all contemporaneous oral agreements, negotiations, proposals, and representations concerning such subject matter. No representations, understandings, agreements, or warranties, expressed or implied, have been made or relied upon in the making of this Agreement other than those specifically set forth herein.

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SIGNATURE PAGE

IN WITNESS WHEREOF, each Party has executed this Agreement effective on the Effective Date described above.

GALLATIN RIVER COMMUNICATIONS, L.L.C.

By Michael T Skrivan

Name Michael T Skrivan

Title VP Revenues

Date Nov. 5, 2001

NTS Services Corp.

By [Signature]

Name Daniel L Johnson

Title President

Date 11-5-2001